

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DUWAYNE L. TERRY,	:	
	:	
Plaintiff,	:	
	:	20-CV-3847 (JMF)
-v-	:	
	:	<u>ORDER</u>
TINA STAMFORD et al.,	:	
Defendants.	:	
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JESSE M. FURMAN, United States District Judge:

On October 1, 2021, Defendants filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of right. Because Plaintiff is proceeding *pro se*, however, the Court will give Plaintiff additional time to amend the complaint.

Accordingly, it is hereby ORDERED that Plaintiff shall file any amended complaint by **November 12, 2021**. If Plaintiff believes that the pleading of additional facts will cure the deficiencies alleged in the motion to dismiss, Plaintiff should include those facts in the amended complaint. To be clear, the Court has already granted Plaintiff's previous motion to amend, adopting the complaint received by the Court on October 19, 2020 as the operative complaint. *See* ECF No. 88. Plaintiff may now make amendments to *that* complaint in response to Defendants' motion to dismiss. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.

If Plaintiff does amend, by three (3) weeks after the amended complaint is filed, Defendants shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF

stating that they rely on the previously filed motion to dismiss. If Defendants file an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot.

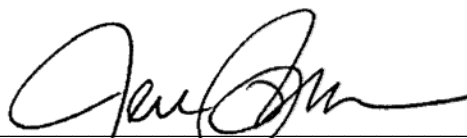
If no amended complaint is filed, Plaintiff shall serve any opposition to the motion to dismiss by **November 12, 2021**. Defendants' reply, if any, shall be served by **November 26, 2021**.

Either party may request an extension of the briefing schedule for the motion. A deadline will be extended if the party demonstrates that its pursuit of the action has been diligent and that there is a good reason for extending the deadline.

Finally, the Clerk of the Court is directed to mail a copy of this Order to Plaintiff.

SO ORDERED.

Dated: October 4, 2021  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge